

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, February 2, 1998

DIVISION TWO

A075908 -- The People v. Rick Joseph Lilly.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

A077290 -- The People v. Arthur William Hopper.

The judgment of conviction is affirmed. The judgment of sentence is reversed, and the matter is remanded for resentencing consistent with the views stated in this opinion. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A080551 -- The People v. Jason C. Johnson.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

DIVISION FOUR

A078201 & A078305 -- Christina M. Sagonowsky, et al. v. Antonia L. More.

By The Court: The above entitled appeals are transferred from Division Two to Division Four of this court. The related petition for writ of mandate having been previously assigned to Division Four, requires by this court's Internal Operating Practices and Procedures, Section 21(b), to transfer this case to Division Four. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, Administrative Presiding Justice.

Monday, February 2, 1998 (continued)

DIVISION FIVE

A076384 -- The People v. Lawrence Michael McNay.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J.
(Not for Publication.)

A077882 -- Wale O. Osijo v. Ganong and Michell et al.

The Court: The judgment is affirmed. Before Peterson, P.J.; Haning, J.;
and Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, February 3, 1998

DIVISION TWO

A076699 -- Sandra Smith, et al. v. Craig Kocian, et al.

The judgment is reversed and the cause remanded to the trial court for proceedings not inconsistent with this opinion. Each party is to bear their own costs on appeal. Haerle, J. I concur: Ruvalo, J. See dissenting opinion of Kline, P.J. (Not for Publication.)

A080705 -- George L. Chuchas v. The Superior Court of Sonoma County, Compex Systems, Inc., R.P.I.

By The Court: Respondent court having complied with the directive of paragraph (a) of the alternative writ issued by this court on December 26, 1997, the petition for writ of mandate is dismissed as moot. Kline, P.J.

DIVISION THREE

A075998 -- Ahn Motel Investment v. City of Livermore.

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Costs to respondent. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A076543 -- The People v. Cheryl Jeanene Woods and William B. Benson.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Certified for Publication.)

Tuesday, February 3, 1998 (continued)

A076638 -- The People v. Michael Damon Snider.

For the foregoing reasons, we hold that the conditions of probation requiring Snider to waive the psychotherapist-patient privilege and to take any medication prescribed by a psychotherapist are invalid. They are ordered stricken, and the case is remanded to the trial court in the event it wishes to consider modification of the probation order to impose other permissible conditions. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A077169 -- The People v. Jose Luis Hernandez.

For the foregoing reasons, the judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A077483 -- Estate of Belva C.P. Smith, Deceased.

Charles Smith v. India Rose Smith, et al.

The judgment is reversed. Appellant shall recover his costs on appeal. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Certified for Publication.)

DIVISION FIVE

A076955 -- The People v. Magdaleno Gaitan Pineda.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

A079111 -- The People v. David Marcus Dunson.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Tuesday, February 3, 1998 (continued)

A080827 -- Fred R. v. The Superior Court of Solano County, Solano County Health and Social Services Department, R.P.I.

By The Court: Substantial evidence supports the rulings of the juvenile court.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26. (Welf. & Inst. Code, § 366.26, subd. (l).) The request for stay is denied. Since the section 366.26 hearing is set for February 11, 1998, this opinion is final as to this court forthwith. (See rule 24(d).) The Court: Peterson, P.J., Haning, J. and Jones, J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, February 3, 1998

Court convened at 9:45 a.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Hanlon, P.J. and McGuiness, J. (Poche, J. absent due to an emergency; all counsel in the morning cases waived his presence); Channing Hoo, Deputy Clerk; CHP Officer Curtis Reese, Baliff.

- A077771 Old Holdings, Ltd.
 v.
 Jed Food Services, Inc.
Cause called and argued by Franklin Cibula, counsel for appellant Jed, and, through teleconference, by Deborah DeMarchi, counsel for respondent. Cause ordered submitted.
- A078871 In re the Marriage of Barrier
 Paul Barrier
 v.
 Bonnie Travers
Cause called and argued by in pro per appellant Paul Barrier. Counsel for respondent earlier waived oral argument; no appearance. Cause ordered submitted.
- A078294 Harvey Greenfield
 v.
 Fritz Companies, Inc. et al.
Cause called and argued by Edward Dietrich, counsel for appellant Greenfield, and by John Kanberg, counsel for respondents. Cause ordered submitted.

The court recessed at 10:37 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, February 4, 1998

DIVISION TWO

A075251 -- Allyn Beth Landau, M.D. v. The Superior Court of The State of California In and For the City and County of San Francisco, Medical Board of California, R.P.I.

A075493 -- Allyn Beth Landau, M.D. v. Medical Board of California.
By The Court: The petition for rehearing is denied. Kline, P.J.

A077665 -- Robert H. Overly and Louise S. Overly v. Ingalls Shipbuilding, Inc.

By The Court: Appellants Robert H. Overly and Louise S. Overly having filed a request for dismissal with prejudice of their appeal filed on February 21, 1997, the appeal on file herein is ordered dismissed. This leaves remaining the cross-appeal of Ingalls Shipbuilding. The opening brief is due 30 days from the date of this order. Kline, P.J.

A078740 -- San Francisco Gun Exchange, Inc. v. City and County of San Francisco, et al.

By The Court: Counsel having so stipulated, the appeal on file herein is ordered dismissed with each party to bear its own costs on appeal and the remittitur is to issue forthwith. Kline, P.J.

A080102 -- The People v. Sandra Jean Minton.

By The Court: The appellant having failed to file a brief after notice given under rule 17(a), California Rules of Court, the appeal is dismissed. Kline, P.J.

Wednesday, February 4, 1998 (continued)

A080327 -- The People v. Damdee Soungpanya.

By The Court: The appellant having filed an abandonment of appeal in this court, the appeal on file herein is ordered dismissed and the remittitur is to issue forthwith. Kline, P.J.

A080557 -- The People v. Alissa Marie Moore.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

A080991 -- Rudy Gomez v. Pelican Bay State Prison, et al.

By The Court: The appellant having failed to pay the statutory filing fee in compliance with rule 1(c), California Rules of Court, after notice given pursuant to rule 10(a), the appeal filed on December 03, 1997 is dismissed. Kline, P.J.

DIVISION THREE

A077523 -- The People v. Jose Alfredo Ochoa.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J.
(Not for Publication.)

A079144 -- The People v. Sylvester Brumfield.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J.
(Not for Publication.)

Wednesday, February 4, 1998 (continued)

DIVISION FOUR

A076855 -- The People v. Jerome Darnell Wilson.

Judgment affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A080081 -- The People v. Robert Wayne Blackmoore.

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A077253 -- The People v. Nick John Cava.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A077520 -- The People v. Ernesto Nucum Bucasas.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A078021 -- The People v. Harold Abend.

The order of the trial court is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, February 5, 1998

DIVISION ONE

A075321 -- The People v. Stanley Dang.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A075628 -- The People v. Leroy Coleman et al.

The judgment as to Kevin Smith is affirmed. The sentence of defendant Leroy Coleman is modified to strike the three-year enhancement imposed on count two pursuant to Penal Code section 186.22, subdivision (b)(1). As modified, the judgment as to Coleman is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A076592 -- Joseph McInerney v. City and County of San Francisco, et al.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

A076696 -- Anita L. Crockett v. West Wind Advantage, Inc., et al., Congress Mortgage Company.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A078310 -- The People v. Amadeus Fahey.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

Thursday, February 5, 1998 (continued)

A079041 -- The People v. Juan M. Quintero.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A077902 -- Carolyn C. Anderson et al. v. Trustees of the California State University.

We affirm the judgment and reverse the order dated October 8, 1996, which continued the preliminary injunction. The trustees are awarded costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A074816 -- Alice Ching, et al. v. Harsch Investment Corporation.

By The Court: The petition for rehearing is denied. Phelan, P.J.

DIVISION FOUR

A078871 -- In re the Marriage of Bonnie Travers and Paul Barrier.

The order denying the application to modify child custody is affirmed. Hanlon, P.J. We concur: Poché, J., McGuinness, J. (Not for Publication.)

Thursday, February 5, 1998 (continued)

DIVISION FIVE

A077515 -- The People v. Rodney Lee Bechler.

The judgment is modified to reflect a conviction of three counts of assault with a firearm under section 245, subdivision (a)(2) in lieu of assault with a firearm on a firefighter. Since appellant does not claim error in the court's finding that he personally used a firearm, and substantial evidence supports such finding, it is also affirmed. The matter is remanded for resentencing. Haning, J. We concur: Peterson, P.J., Jones, J. (Certified for Partial Publication.)

A077879 -- Westhaven Community Development Council v. County of Humboldt et al.

We affirm. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Partial Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

THURSDAY, FEBRUARY 5, 1998

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, Marathon Plaza-South Tower, Fourth Floor, San Francisco, California. Present: Phelan P.J., Walker, J., and J. Casados, Deputy Clerk

Justice Phelan announced that Justice Parrilli would not be present at oral argument. Since the court records the oral argument sessions, Justice Parrilli will listen to the audio tape. Should any party object to a two-panel oral argument session, the matter will be continued. There were no objections by either party.

A076160 Lloyd Weisz,
 v.
 Johnson Scaffolding Company et al.
 Cause called and argued by Julie Taylor, counsel for respondent,
 and Jack Laufenberg, counsel for appellant.. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, February 6, 1998

DIVISION ONE

A079050 -- Edward P. Dant v. The Superior Court of the City and County of San Francisco, The People, R.P.I.

As we have previously explained, defendant has been released. Therefore, the alternative writ is discharged, having served its purpose, and the petition is denied as moot. Swager, J. We concur: Strankman, P.J., Stein, J. (Certified for Publication.)

DIVISION TWO

A077865 -- Cable Moore, Inc. v. Washington Chain & Supply, Inc.

The judgment is reversed and the matter remanded to the trial court for further proceedings. Appellant shall be awarded costs on appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A079278 -- The People v. Angel Kristina Holloway.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A081467 -- James Samuel Kor, Jr. v. The Superior Court of Marin County, The People of the State of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

Friday, February 6, 1998 (continued)

A081514 -- Patsy Phillips v. The Superior Court of Alameda County, County of Alameda, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Petitioner has failed to show compliance with the time requirements of Code of Civil Procedure section 437c, subdivision (1). (See Sturm, Ruger & Co. v. Superior Court (1985) 164 Cal.App.3d 579; Eldridge v. Superior Court (1989) 208 Cal.App.3d 1350; Schmidt v. Superior Court (1989) 207 Cal.App.3d 56.) Kline, P.J.

A081534 -- In re Ralph Antonio Taylor, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Petitioner must first exhaust all administrative remedies. Kline, P.J.

A081537 -- In re David Smith, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

DIVISION THREE

A073705 -- The People v. Franz Roland Ray.

A078225 -- In re Franz Roland Ray, On Habeas Corpus.

Order Modifying Opinion and Denying Rehearing; By The Court: It is ordered that the opinion filed herein on January 14, 1998, be modified as follows: (See Order) The petition for rehearing is denied. There is no change in judgment. Parrilli, Acting P.J. (Not for Publication.)

A078378 -- The People v. Byron Shields.

The judgment is affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Friday, February 6, 1998 (continued)

DIVISION FOUR

A077454 -- Doug Winfrey et al. v. Chief Auto Parts, Inc.

The order of the trial court, denying class certification is reversed. Chief to bear costs of appeal. McGuiness, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

A077771 -- Old Holdings, Ltd. v. J.E.D. Food Services, Inc., et al.

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A079795 -- The People v. Kevin Jay Barnes.

The judgment is affirmed. Reardon, J. We concur: Hanlon, J., McGuiness, J. (Not for Publication.)

DIVISION FIVE

A077650 -- In re Damien B., a Person Coming Under the Juvenile Court Law.

The matter is remanded to the trial court for further proceedings in accordance with the views expressed in this opinion. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A077721 -- The People v. Cushado F. Cox.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Friday, February 6, 1998 (continued)

A080581 -- The People v. Jose Hermosillo Resendiz.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, February 9, 1998

DIVISION ONE

A076035 -- Lawrence J. Carr, Jr. v. Henry Hae Jo Kim et al.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A076060 -- Ray Mayeri v. Ronald Homan.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A077142 -- Stephen S. Noetzel v. San Francisco State University et al.

The judgment is reversed. Costs are awarded to appellant. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A080628 -- The People of the State of California v. The Superior Court of Alameda County, Dennis R. Peron et al., R.P.I.

Let a peremptory writ of mandate issue commanding respondent Superior Court of Alameda County in *People v. Dennis Peron et al.* (No. 128473) to vacate its order entered October 16, 1997 transferring the case to San Francisco County. The stay previously imposed shall remain in effect until the remittitur is issued. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

Monday, February 9, 1998 (continued)

DIVISION TWO

A078500 -- In re Ricardo F., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A079451 -- The People v. Charles Russell Mulvihill.

The judgment, as modified, is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A079295 -- In re Isabella C., a Person Coming Under the Juvenile Court Law.

Judge Rosenfield did not abuse his discretion in denying appellant's motion for continuance. The judgment is affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A079327 -- The People v. Rufus Jones Fields.

The judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Monday, February 9, 1998 (continued)

DIVISION FOUR

A076950 -- The People v. David A. Renner.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on January 8, 1998, be modified in the following particulars: (See Order) There is no change in the judgment. Appellant's petition for rehearing is denied. Hanlon, P.J. (Not for Publication.)

A077928 -- In re Carlos D., a Person Coming Under the Juvenile Court Law.

The order of commitment is affirmed. Poché, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

A078294 -- Harvey Greenfield v. Fritz Companies, Inc. et al.

The judgment is reversed with directions to allow plaintiff an opportunity to amend his complaint. Plaintiff shall recover his costs. Poché, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

A078369 -- The People v. Willis Henderson Nelson.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

DIVISION FIVE

A077914 -- The People v. Pastor Carbajal Aguilar.

We vacate Aguilar's sentences and remand for resentencing. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

Monday, February 9, 1998 (continued)

A078611 -- Dataexpert Corporation et al. v. Chubb & Son, Inc., et al.

The trial court's ruling is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, February 10, 1998

DIVISION ONE

A075356 -- Lawrence J. Chazen et al. v. Centennial Bank.

A075424 -- Sheldon Brown et al. v. Centennial Bank et al.

By The Court: The request to publish the opinion previously filed on January 12, 1998, is hereby granted.

The written opinion which was filed on January 12, 1998, is certified for publication.

The written opinion which was filed on January 12, 1998, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is therefore ordered that it be published in the official reports. Strankman, P.J.

DIVISION TWO

A071519 -- In re Tameka C., a Person Coming Under the Juvenile Court Law.

Order Modifying Opinion; The Court: It is ordered that the opinion filed herein on January 15, 1998, be modified in the following particulars: (See Order) There is no change in the judgment. Kline, P.J. (Certified for Publication.)

A076260 -- The People v. Emad Ayyoub.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Tuesday, February 10, 1998 (continued)

A077453 -- Pacific Bell v. Amelco Industries.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A079668 -- Brennan Newsom v. Leland, Parachini, Steinberg, Matzger & Melnick.

By The Court: The appellant having filed a request for dismissal in this court, the appeal on file herein is ordered dismissed. Kline, P.J.

A079716 -- California School Employee's Association, et al. v. Klamath-Trinity Unified School District, et al., Darline Giddings, et al.

By The Court: The appellant having filed a request for dismissal in this court, the appeal on file herein is ordered dismissed. Kline, P.J.

A079784 -- Eddie Andreini, et al. v. Superior Court of San Mateo County, Maurilio Solorio, R.P.I.

By The Court: The petition for rehearing is denied. Kline, P.J.

A081337 -- Michael Hynds v. Canyon lake Country Club.

By The Court: The appellant having failed to procure the record on appeal within the time limits allowed or within any valid extensions of these time limits, the appeal filed December 31, 1997 is ordered dismissed. (See rule 10(c), California Rules of Court.) Kline, P.J.

Tuesday, February 10, 1998 (continued)

A081338 -- Western States Petroleum Association v. County of Contra Costa, et al.

By The Court: The above entitled appeal is transferred from Division Three to Division Two of this court. This appeal and the underlying action in case number A080821, pending before Division Two, were consolidated at the lower court which requires by this court's Internal Operating Practices and Procedures, Section 21(b), transfer of this case to Division Two. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, Administrative Presiding Justice.

DIVISION THREE

A075746 -- The People v. Naramvin James Eivaz et al.

The portion of the judgments pertaining to restitution is reversed. The matter is remanded for further proceedings on that subject. In all other respects, the judgments are affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A078306 -- Charles Quackenbush, as Insurance Commissioner, etc., et al. v. The Superior Court of San Francisco County, Congress of California Seniors et al., R.P.I.

Memorandum Opinion: On December 24, 1997, this court filed its opinion in response to an original writ petition filed by appellant herein. (See *Quackenbush v. Superior Court* (1997) 60 Cal.App.4th 454.) In that opinion we decided the identical issues presented by appellant in this appeal. That decision is now final as to this court (although a petition for review is pending). Accordingly, there is no justiciable issue to be decided and this appeal is moot.

The appeal is dismissed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Tuesday, February 10, 1998 (continued)

DIVISION FOUR

A075354 -- In re Christopher B., a Person Coming Under the Juvenile Court Law.

A077467 -- In re Christopher B., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A077766 -- The People v. Ronald Anthony Mack, Sr.

Order Modifying Opinion and Denying Rehearing; The Court: It is ordered that the opinion filed herein on January 14, 1998, be modified in the following particulars: (See Order) There is no change in the judgment.

Appellant's petition for rehearing is denied. Hanlon, P.J.

A079601 -- The People v. Russell Dean Daniels.

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A074848 -- The People v. Alexander Lavert Moss.

A079760 -- In re Alexander Lavert Moss, On Habeas Corpus.

By The Court: The People have filed a petition for modification of this court's January 16, 1998 opinion. In response to that petition, the court modifies its January 16, 1998 opinion as follows: Delete the words "Attorney General" from the 7th line of the single paragraph in the Disposition section on page 16 and insert the word "People" in its place.

This order does not effect a change in the judgment. Haning, Acting P.J. (Not for Publication.)

Tuesday, February 10, 1998 (continued)

A077108 -- The People v. Jason McCord Patten.

A079205 -- In re Jason McCord Patten on Habeas Corpus.

The judgment is hereby modified to grant appellant an additional 26 days of actual credit and 12 days of conduct credit. The judgment is otherwise affirmed. The petition for habeas corpus is denied. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

A077725 -- Michael R. Wood v. Dennis D. McDonald et al.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A078459 -- John B. Adamo v. The Superior Court of Contra Costa County, Bonnie Jean Daniel, R.P.I.

Let a peremptory writ of mandate issue commanding respondent superior court to vacate its order sustaining the demurrer to the two negligence causes of action of the first amended complaint without leave to amend, and to enter a new order overruling the demurrer. Petitioner shall recover his costs of this writ proceeding. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, February 11, 1998

DIVISION ONE

A075231 -- Susan Larsen et al. v. Republic Indemnity Company of America.

The judgment is reversed insofar as it dismissed Antioch's cause of action for breach of the insurance contract's covenant of good faith and fair dealing. Republic is granted no relief on its cross-appeal. Antioch is awarded its costs on appeal. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A076811 -- Eva Roza v. Joyce Yamagiwa, as trustee for the Anne Marie and Charles J. Keenan III Trust.

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A076872 -- Leslie M. Flannery v. California Highway Patrol et al.

The order is reversed and the matter is remanded for a reconsideration of the amount of the fee award consistent with the views expressed in this opinion. Strankman, P.J. We concur: Dossee, J., Swager, J. (Certified for Publication.)

**A077403 -- Estate of Charles H. Berger, Deceased.
Mary J. Swanson v. George Clarke et al.**

In conclusion, we hold that the trustor's declared intention to create a trust in property he did not personally own was ineffectual to create a trust in that property.

The order on petition to determine title to real property is reversed. Costs are awarded to appellant. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

Wednesday, February 11, 1998 (continued)

A077414 -- Contra Costa County v. Gerald Mark Meza.

The order is reversed. Costs are awarded to appellant. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A077474 -- Elizabeth McCarthy v. Ray Bronner.

In summary, because plaintiff's claims for restitution and return of personal property are not substantially related to defendant's communications into California, the trial court erred in exercising specific jurisdiction as to those claims. We modify the order by striking the orders for restitution and for return of personal property. Of course, should defendant ever arrive on California soil, then the California courts would unquestionably have jurisdiction to impose all appropriate remedies under the DVPA or otherwise. For now, however, the proper forum for plaintiff's claims for monetary restitution and for possession of personal property is the state of defendant's domicile.

Those portions of the order which grant restitution and compel return of personal property are stricken. As so modified, the order is affirmed. Each party shall bear his or her own costs. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A078276 -- George S. Wynns v. The National Collection Agency, Inc., et al.

The judgment is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

Wednesday, February 11, 1998 (continued)

DIVISION TWO

A071717 -- James and Dora Kaliamos v. County of Humboldt.

Insofar as it relieves County of any liability for compensating the Kaliamoses for “improvements” under Code of Civil Procedure section 1263.205 et sequitur, the judgment is reversed, and the matter is remanded to the trial court with directions to hold further proceedings to determine the scope of such liability and to award appropriate damages. In all other respects, the judgment is affirmed. The Kaliamoses are awarded their costs on appeal. (Cal. Rules of Court, rule 26 (a).) Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A074453 -- The People v. Calvin William Johnson.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Haerle, J. (Not for Publication.)

A075251 -- Allyn Beth Landau, M.D. v. The Superior Court of the State of California, in and for the City and County of San Francisco, Medical Board of California, R.P.I.

A075493 -- Allyn Beth Landau, M.D. v. Medical Board of California.

By The Court: Since the unpublished portion of this court’s opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied.

Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the subject opinion, and a copy of this order. Kline, P.J.

A075575 -- The People v. Alycia Marie Gedman.

A078929 -- In re Alycia Marie Gedman On Habeas Corpus.

The petition is affirmed and the habeas corpus petition is denied. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Wednesday, February 11, 1998 (continued)

A076172 -- The People v. Duane Peter Zamboanga.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A076188 -- The People v. Shane Beasley.

The trial court's order staying its prior order to return appellant's property is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A078920 -- In re the Marriage of Phillip C. Stewart, III and Sandra D. Stewart.

The judgment is affirmed. The motion for attorney fees is denied. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A080188 -- The People v. Troy Daniel Kinslow.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A069164 -- The People v. Steven James Holdsworth.

Execution of sentence on appellant's conviction on count ten for violation of Vehicle Code section 2800.2 is ordered stayed pursuant to section 654, such stay to become final upon completion of appellant's sentence. The abstract of judgment is ordered modified to state a sentence of a life imprisonment, with a minimum determinate term of 34 years, 4 months before parole. The trial court is directed to issue a new abstract of judgment reflecting this change and forward it to the Department of Corrections. In all other respects, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Wednesday, February 11, 1998 (continued)

A074592 -- The Economic Empowerment Foundation v. Charles Quackenbush, etc., State Farm Mutual Auto Ins. Co., et al., R.P.I.

By The Court: The request for publication of the opinion filed January 20, 1998, is denied. Phelan, P.J.

A074592 -- The Economic Empowerment Foundation v. Charles Quackenbush, etc., State Farm Mutual Auto Ins. Co., et al., R.P.I.

By The Court: The petition for rehearing is denied. Phelan, P.J.

A080281 -- Ronald Chang v. Albert Ghan et al.

The cross-appeal is dismissed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

A074848 -- The People v. Alexander Lavert Moss.

A079760 -- In re Alexander Lavert Moss On Habeas Corpus.

By The Court: The petition for rehearing is denied. This order does not effect a change in the judgment. Peterson, P.J. (Not for Publication.)

A077958 -- Edward Jong et al. v. Kwan POUNG Chiu et al.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A078589 -- The People v. Harem Arends.

The judgment of conviction is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

Wednesday, February 11, 1998 (continued)

A078752 -- Harold R. Farrow et al. v. William H. Sauro et al.

The order staying the action is affirmed without prejudice to appellants raising the motion again based on changed circumstances. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, February 13, 1998

DIVISION ONE

A076646 -- The People v. Dale S. Wright.

Judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A070295 -- Brian F. Sears v. Martin B. Baccaglio.

By The Court: The petition for rehearing is denied. Kline, P.J.